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FISCAL IMPACT STATEMENT

LS 6271

BILL NUMBER: SB 132

NOTE PREPARED: Nov 27, 2012

BILL AMENDED:

SUBJECT: Synthetic Drugs.

FIRST AUTHOR: Sen. Kruse

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill removes mitragynine and 7-hydroxymitragynine from the definition of "synthetic drug".

Effective Date: July 1, 2013.

Explanation of State Expenditures: *Summary:* The removal of certain chemical compounds from the definition of synthetic drugs as an element of some felony and misdemeanor drug offenses may decrease the number of offenders found guilty of these offenses. However, there are no data available to indicate how many fewer people may be convicted of these offenses as a result.

The bill could decrease the forfeiture of vehicles and money or monetary instruments, weapons, communication devices, or property used to commit, attempt to commit, or conspire to commit dealing in a synthetic drug, which could offset some police costs or decrease funds deposited in the Common School Fund. To the extent that the court would have otherwise notified the Bureau of Motor Vehicles (BMV) and the BMV produced a clear title for a seized vehicle, costs for the BMV could decrease minimally.

Background: The penalty for dealing in synthetic drugs can range from:

1. A Class A misdemeanor for dealing of a synthetic drug.
2. A Class D felony if more than two grams of a synthetic drug are involved or the person has a prior conviction.
3. A Class C felony if more than two grams of a synthetic drug are involved and the person delivered or financed the delivery of the synthetic drug in a school bus or within 1,000 feet of school property, a

public park, a family housing complex, or a youth program center.

A Class C felony is punishable by a prison term ranging from two to eight years depending upon mitigating and aggravating circumstances.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances.

Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,234 annually, or \$8.86 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class C felony offenders is approximately two years and about ten months for all Class D felony offenders.

Explanation of State Revenues: If fewer court cases occur and fewer fines are collected, revenue to both the Common School Fund and the state General Fund could decrease. The maximum fine for a Class C felony or a Class D felony is \$10,000, and it is \$5,000 for a Class A misdemeanor. Criminal fines are deposited in the Common School Fund.

If the case would have been filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that would have been assessed and collected when a guilty verdict is entered would have been deposited in the state General Fund. If the case would have been filed in a city or town court, 55% of the fee would have been deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$5), judicial salaries fee (\$19), public defense administration fee (\$5), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$2) would have been deposited into the state General Fund.

In addition, persons convicted of a drug-related offense may also be liable for a drug abuse, prosecution, interdiction, and correction fee ranging between \$200 and \$1,000. The revenue collected from this fee would have been deposited in the State User Fee Fund and distributed to state and local programs. The bill could reduce revenue to the State User Fee Fund.

Explanation of Local Expenditures: If fewer felony offense defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may decrease. Fewer people may also be detained in county jails for Class A misdemeanors. A Class A misdemeanor is punishable by up to one year in jail. The average cost per day is approximately \$44.

The prosecuting attorney for the county in which the seizure occurred could have caused an action for reimbursement of law enforcement costs to be brought by filing a complaint in the circuit, superior, or county court of the jurisdiction and may retain an attorney to bring the action.

Explanation of Local Revenues: If fewer court actions occur and guilty verdicts are entered, local governments would receive less revenue from court fees. However, the reductions in revenue would likely be small.

The proceeds from the sale of seized property would have been distributed first to the county sheriff to cover sale costs, then to any person holding a valid lien or having an interest in the property, and then to the Common

School Fund as ordered by the court. The bill could reduce revenue to county sheriffs. However, any reductions in revenue are likely to be small.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources:

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